

Central Intelligence Agency



Washington, D.C. 20505

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Legal-  
S. 1815

\*OLL 85-3531

15 NOV 1985

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Frey:

Enclosed please find a copy of a letter from the Director of Central Intelligence (DCI) to Senator Hatch, Chairman, Senate Committee on Labor and Human Resources.

The letter transmits the views of the DCI, speaking as head of the Intelligence Community, on S. 1815, a bill to ban the private use of polygraph examinations.

We ask that you advise us as to whether or not this letter is consistent with the Administration's program.

As we would like to begin working with Senator Hatch's staff on the legislation as soon as possible, we would appreciate receiving your advice by Friday, November 22, 1985.

Your cooperation is most appreciated.

Sincerely,

/s/Charles A. Briggs

Charles A. Briggs  
Director, Office of Legislative Liaison

Enclosure

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Central Intelligence Agency



Washington, D.C. 20505

The Honorable Orrin G. Hatch  
Chairman  
Committee on Labor & Human Resources  
United States Senate  
Washington, D.C. 20510

Dear Senator Hatch:

I write in regard to S. 1815, the "Polygraph Protection Act of 1985" introduced by Senator Kennedy and you and referred to the Committee on Labor and Human Resources. I would like to bring to your attention one issue raised by the Bill which is of concern to me in my capacity as head of the Intelligence Community.

S. 1815, by its terms, applies to "entities engaged in interstate commerce". Of course, by definition, neither the federal government nor any of its organizations in the Intelligence Community "engage in interstate commerce". Further, Section 8 of the Bill explicitly exempts "employees of the United States" from the Bill's provisions. Thus, S. 1815 would exclude the Agency and all other agencies or organizations within the Intelligence Community from its scope. I believe, as I am sure you do, that such an exclusion is both necessary and proper.

Though S. 1815 excludes the Agency and the Community, I am, nevertheless, concerned about its potentially adverse impact upon Agency and Community contractors. As you may know from your membership on the Select Committee on Intelligence (SSCI), the Agency and the Community (including, most especially, the National Security Agency) are parties to contracts with various companies, individuals and other private concerns which routinely provide goods and services (often of a quite sensitive nature) essential to the intelligence, counterintelligence and security functions of the contracting agencies. In order to insure the security of such arrangements, the Agency, as part of its industrial security program, administers polygraph examinations to certain of the contractor's employees. Other agencies within the Intelligence Community have similar arrangements. In these days of increasing concern over personnel security, the wisdom of such arrangements has become apparent.

I do not believe it was the intent of S. 1815 to include within its prohibitory scope these programs which are so clearly related to maintaining the security of the national intelligence mission. In fact, I note that Subsection (2) of Section 8 of the Bill excludes "personnel of contractors of the Department of Defense with access to classified information." Nevertheless, I am concerned that the wording of S. 1815, as it stands now, could be interpreted to cover examinations administered to employees of Agency and Community contractors. Such an interpretation would obviously have an adverse effect upon the Agency's industrial security program as well as on similar programs of other organizations within the Intelligence Community.

In order to remedy this problem, the Agency and the Community believe that Section 8 of S. 1815 should be amended to make it clear that the Bill does not cover examinations administered to employees of Agency or Community contractors. This could be accomplished by amending Section 8 to add a new subsection thereof, Subsection 3, which would read as follows:

SEC. 8. The provisions of this Act shall not apply with respect to-

\* \* \*

(3) contractors, or employees thereof, of agencies or organizations in the Intelligence Community (as defined in Section 3.4 of Executive Order 12333 or its successor Orders) in connection with such contracts.

In connection with this amendment, I have enclosed a listing of the agencies and organizations in the Community as defined in Executive Order 12333.

I believe that this amendment does not detract from the purpose of S. 1815 but insures that the Agency's industrial security program, and others like it within the Intelligence Community, will continue to function unimpeded.

I appreciate the opportunity to bring these important concerns to your attention. Any questions in this matter should be directed to [redacted] Chief, Legislation Division, Office of Legislative Liaison [redacted]

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Sincerely,

William J. Casey  
Director of Central Intelligence

Enclosure

cc: The Honorable Edward M. Kennedy  
Committee on Labor and Human Resources

The Honorable Dave Durenberger, Chairman  
Senate Select Committee on Intelligence

The Honorable Patrick Leahy, Vice Chairman  
Senate Select Committee on Intelligence

INTELLIGENCE COMMUNITY AGENCIES

Subsection (f) of Section 3.4 of Executive Order 12333 "United States Intelligence Activities" defines the Intelligence Community as the following agencies or organizations:

°the Central Intelligence Agency (CIA);

°the National Security Agency (NSA);

°the Defense Intelligence Agency (DIA);

°offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

°the Bureau of Intelligence and Research of the Department of State;

°the intelligence elements of the military services, the Federal Bureau of Investigation, the Department of the Treasury and the Department of Energy; and,

°staff elements of the Director of Central Intelligence.